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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/859,665	05/18/2001	Robert Cosmo Di Luccio	KCX-1501 (15512)	3343
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EXAMINER				
ANDERSON, CATHARINE L				
ART UNIT		PAPER NUMBER		
3761				
MAIL DATE		DELIVERY MODE		
04/23/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/859,665

Applicant(s)

LUCCIO ET AL.

Examiner

Lynne Anderson

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6, 10-12, 14-20, 23-29, 31-34, 36-42, 44-48 and 50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-4, 6, 10-12, 14, 27-29, 31-34, 39-42, 44-48 and 50 is/are allowed.
- 6) ☒ Claim(s) 15-20 and 23-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 28 January 2009 have been fully considered but they are not persuasive.
2. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the treatment chemistry being disposed within the nonwoven web) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The present claims merely disclose the treatment chemistry being intermingled with the fibers forming the nonwoven web, and do not disclose the treatment chemistry being disposed within the web.
3. Hamilton discloses a treatment chemistry disposed in direct contact with the nonwoven web (i.e. in direct contact with the surface of the web), and therefore the treatment chemistry is in contact with the fibers forming the web. Since the treatment chemistry of Hamilton is disposed in contact with the fibers forming the web, and between different portions of the web, the treatment chemistry is intermingled with the fibers.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 15-20 and 23-26 are rejected under 35 U.S.C. 102(e) as being anticipated by Hamilton et al. (6,562,192).
6. Hamilton discloses a method comprising forming a tampon including a nonwoven web material and dispersing within the nonwoven nits comprising a treatment chemistry, as disclosed in column 47, lines 33-40, and contacting the treatment chemistry with menses, as disclosed in column 7, lines 44-48. The treatment chemistry comprises chitosan, as disclosed in column 25, lines 25-42, which is a water-soluble gelling agent which crosslinks protein. The nits comprise pulp fibers, and the treatment chemistry is added to the pulp fibers prior to drying of the fibers, resulting in the treatment chemistry being present throughout the fibers, as disclosed in column 22, lines 24-25.
7. With respect to claim 16, the treatment chemistry is in the form of particles, as disclosed in column 25, lines 39-40.
8. With respect to claim 17, the treatment chemistry is uniformly dispersed within a portion of the interior of the nonwoven, as disclosed in column 30, lines 55-57.
9. With respect to claim 18, the tampon comprises a plurality of nonwoven material layers, as disclosed in column 47, lines 36-40.
10. With respect to claim 19, the treatment chemistry is not dispersed on the nonwoven coverstock material, as disclosed in column 47, lines 36-40.

11. With respect to claim 20, the treatment chemistry is dispersed non-homogeneously, as disclosed in column 30, lines 55-57.
12. With respect to claim 23, the nonwoven web material is airlaid, as disclosed in column 47, lines 36-40.
13. With respect to claim 24, the treatment chemistry comprises a water-soluble gelling agent, as disclosed in column 25, lines 39-40, and a superabsorbent, as disclosed in column 29, lines 54-55.
14. With respect to claims 25-26, the treatment chemistry is a polyglycan water-soluble gelling agent, chitosan.

Allowable Subject Matter

15. Claims 1-4, 6, 10-12, 14, 27-29, 31-34, 36-42, 44-48, and 50 are allowed.
16. The following is a statement of reasons for the indication of allowable subject matter: The prior art of record fails to disclose the claimed invention. Specifically, the prior art of record fails to disclose the nonwoven web comprising bicomponent fibers having a treatment chemistry disposed within one segment of the bicomponent fibers. The prior art of record also fails to disclose the treatment chemistry applied to opposed side wings or the peripheral region of the article, and not the central region.

Conclusion

17. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynne Anderson whose telephone number is (571)272-4932. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/L. A./
Examiner, Art Unit 3761

/Tatyana Zalukaeva/
Supervisory Patent Examiner, Art Unit 3761